

### Remarks

#### Restriction Requirement

In the Office Action, the examiner has issued a restriction requirement and requires election of one of the following groups under 35 U.S.C. § 121:

- Group I: Claims 1-4, drawn to a method for preventing or reducing hypoxia-acidosis induced injury to a cell comprising reducing BNIP3 mRNA in a cell, classified in class 514, subclass 44.
- Group II: Claims 1 and 5, drawn to a method for preventing or reducing hypoxia-acidosis induced injury to a cell comprising to expressing a mutant BNIP3 protein function in a cell, classified in class 435, subclass 4.
- Group III: Claims 1 and 6, drawn to a method for preventing or reducing hypoxia-acidosis induced injury to a cell comprising preventing BNIP3 protein dimerization in a cell, classified in class 435, subclass 4.
- Group IV: Claims 1 and 7, drawn to a method for preventing or reducing hypoxia-acidosis induced injury to a cell comprising preventing translocation of BNIP3 protein to a mitochondrion in a cell, classified in class 435, subclass 4.
- Group V: Claims 1 and 8-10, drawn to a method for preventing or reducing hypoxia-acidosis induced injury to a cell comprising reducing BNIP3 expression or activity by preventing or reversing acidosis in the cell, classified in class 435, subclass 4.

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Applicant hereby elects with traverse Group II (Claims 1 and 5), drawn to a method for preventing or reducing hypoxia-acidosis induced injury to a cell comprising to expressing a mutant BNIP3 protein function in a cell, classified in class 435, subclass 4.

Applicant traverses the restriction requirement because the subject matter of all Groups describe methods for the common goal of blocking the cell death promoting actions of the Bnip3 gene product, and target the same death pathway at different points. Accordingly, a search for any one Group would most likely be sufficient for other Groups and would therefore not constitute an undue burden.

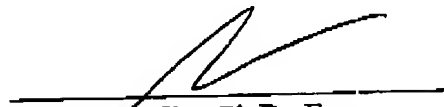
This response is accompanied by a request for a retroactive extension of time. The Commissioner is hereby authorized to charge the fee for the retroactive extension of time as well as any underpayment or credit any overpayment of fees under 37 CFR 1.16 or 1.17 as required by this paper to Deposit Account 50-3110.

The examiner is cordially invited to call the undersigned if clarification is needed on any matter within this response, or if the examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Applicant's attorney would also appreciate if the examiner could update the record to correctly reflect that the attorney docket number in the instant application is 8002-2.

Respectfully submitted,

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